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<b>TO:</b> Commissioner for Patents, Mail Stop: Appeal Brief-Patents	<b>FROM:</b> C. Douglass Thomas Ph: 650-903-9200, Fax: 650-903-9800
<b>COMPANY:</b> United States Patent Office	<b>DATE:</b> MARCH 12, 2007
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<b>PHONE NUMBER:</b>	<b>SENDER'S REFERENCE NUMBER:</b> ACC1P001
<b>RE:</b>	<b>RECIPIENT'S REFERENCE NUMBER:</b> 09/550,706

**NOTES/COMMENTS:**

Transmitted herewith are the following documents for entry into the above-noted file:

Notice of Appeal 1 page

Credit Card Payment Form 1 page

Pre-Appeal Brief 5 pages

Thank you.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re application of: TAM et al.

Attorney Docket No.: ACC1P001

Application No.: 09/550,706

Examiner: Loftis, Johnna R.

Filed: April 17, 2000

Group: 3623

Title: ON-LINE APPOINTMENT SYSTEM

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**CERTIFICATE OF FACSIMILE**

I hereby certify that this correspondence is transmitted via facsimile to: Commissioner for Patents, Alexandria, VA 22313-1450 on March 12, 2007.

Signed: Pat Tate

Printed Name: Pat Tate

**PRE-APPEAL BRIEF**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants appeal the rejection of all claims in the final Office Action dated October 13, 2006. Applicants request careful consideration of this Pre-Appeal Brief in advance of Applicant's submission of a formal appeal brief.

**A. Introduction**

Claims 1-21, 23-34 and 37-39 remain pending, of which claims 9-11, 13-19 and 25-34 have been withdrawn by the Examiner. In the final Office Action, the Examiner rejected claims 1-8, 12, 20, 21, 23, 24 and 37-39 under 35 U.S.C. § 103. This rejection should be withdrawn for at least the reasons noted below.

As a reminder, the Information Disclosure Statement filed October 26, 2004 included a Form PTO-1449 which identified several references. Applicants have not received back an initialed version of the Form PTO-1449 indicating consideration of the

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same. It is respectfully requested that the Examiner return a copy of the initialed version of the Form PTO-1449 for Applicants' records.

**B. Restriction Requirement**

In the Office Action dated April 3, 2006, the Examiner continued to impose a Restriction Requirement. Applicants still protest the Restriction Requirement for the reasons given in the previous response, namely, because (a) the restriction is unreasonable tardy, and (b) there is no undue burden on the Examiner to continue to examine all claims in a single application. In this regard, Applicants **incorporate by reference** (i) the Response filed January 6, 2006 to traverse the restriction requirement, and (ii) the Remarks in the Amendment filed August 2, 2006. It is respectfully requested that the Restriction Requirement be reconsidered and withdrawn.

**C. Rejection of Claims 1-8, 12, 20, 21, 23, 24 and 37-39 under 35 USC 103**

In the Office Action, claims 1-8, 12, 20, 21, 23, 24 and 37-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ralston et al., U.S. Patent 6,389,454, in view of "Russell Information Sciences brings the first real-time scheduling solution to the World Wide Web", (hereinafter referred to as "Russell"). Applicants respectfully disagree.

Although the claimed invention presents numerous non-obvious differences as compared to the cited references, Applicants have concentrated on a selected few in the following discussion to facilitate pre-appeal review. Applicants also **incorporate by reference** (i) the Remarks in the Response filed January 16, 2007, and (ii) the Remarks in the Amendment filed August 2, 2006.

**1. Claim 1**

Claim 1 pertains to a computer-implemented method for providing an on-line appointment between a service provider and a user who is interested in a service the service provider may be able to provide. In Ralston et al. the described method is for scheduling an appointment with a facility, namely, a medical facility for some procedure. Ralston et al. at col. 5, lines 27-32 states: "Thus, the scheduling server 80 generates the

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appointment candidates by communicating with the organization's remote schedule servers 38, 48 58, which in turn communicate with the organization's facilities 35, 45, 55 to determine which of the facilities are available to provide the requisite services at the preferred data and time."

Among other features, claim 1 recites: "checking another calendar of the service provider to determine if there is a conflict between the first calendar and the another calendar due to the selected appointment time...." Here, the Examiner admits that Ralston et al. fails to teach such checking of another calendar. Nevertheless, to overcome this deficiency of Ralston et al., the Examiner combines Ralston with Russell. At best, Russell mentions that it "enables Internet users to instantly schedule conflict-free meetings from anywhere in the world through a standard Web browser." As to scheduling conflict-free meetings, Russell states: "In addition to displaying up to 52 weeks of a user's schedule at a time, the powerful proxy feature streamlines meeting planning by allowing users to simultaneously view multiple calendars." Thus, Russell is thus unable to teach or suggest the checking operation of claim 1 at least because **the checking operation in claim 1 is computer-implemented, as opposed to the manual scheduling performed by a user in Russell.**

Moreover, the checking in claim 1 operates to check a first calendar for a service provider with another calendar of the service provider. That is, both calendars are for the same service provider. **Russell does not teach or suggest checking for conflicts between two calendars of the same person. Indeed, Russell clearly suggests otherwise.** For example, page 1 of Russell concerns notification of scheduling conflicts and states: "This feature ensures users that their meetings will be successfully scheduled by checking their schedules against those of meeting invitees." (emphasis added). In other words, Russell is describing checking the schedules of the various invitees to determine whether there is a conflict for any of the invitees. As a result, Russell's conflict checking fails to teach or suggest checking for conflicts between two calendars of the same person (i.e., the service provider). For at least these reasons, it is submitted that claim 1 is patentably distinct from Ralston et al. alone or in combination with Russell.

## 2. Claim 12

For reasons similar to claim 1 provided above, it is submitted that claim 12 is patentably distinct from Ralston et al. alone or in combination with Russell.

## 3. Claim 20

Claim 20 pertains to an on-line appointment system that supports a large number of users in making appointments over the Internet. Among other things, claim 20 recites: "a synchronization application that provides for automated review of an appointment that has been scheduled to determine whether the scheduled appointment conflicts with at least one entry in a local software calendar of one of the service providers, where the appointment database also provides a calendar for that service provider...." Since Ralston et al. is admittedly deficient in teaching the synchronization manager of claim 20, the Examiner again relies on Russell. However, Russell is unable to teach or suggest the synchronization application and its associated conflict checking operation. More particularly, the conflict checking operation in claim 20 operates to check a calendar for a service provider provided by the appointment database with another calendar, namely, a local software calendar of the service provider. That is, again both calendars are for the same service provider. **Russell does not teach or suggest checking for conflicts between two calendars of the same person, particularly when one calendar is a local software calendar.** For at least these reasons, it is submitted that claim 20 is patentably distinct from Ralston et al. alone or in combination with Russell.

## 4. Conclusion

Based on the foregoing, it is submitted that claims 1, 12 and 20 are patentably distinct from Ralston et al. alone or in combination with Russell. In addition, it is submitted that dependent claims 2-8, 21, 23, 24 and 37-39 are also patentably distinct for at least the same reasons. The additional limitations recited in the independent claims or the dependent claims are not further discussed as the above-discussed limitations are clearly sufficient to distinguish the claimed invention from Ralston et al. and/or Russell. Thus, it is respectfully requested that the Examiner withdraw the rejections of claims 1-8,

12, 20, 21, 23, 24 and 37-39 under 35 USC § 103(a). Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

Respectfully submitted,



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